



PATENT  
Docket No. 399632000325

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Commissioner for Patents, Washington, D.C. 20231, on February 13, 2002.

*Rebekah Werth*  
Rebekah Werth

#9  
JW  
4/12/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Ralph T. KUBO, et al.

Serial No.: 09/665,510

Filing Date: 19 September 2000

For: HLA BINDING PEPTIDES AND THEIR  
USES

Examiner: To be assigned

Group Art Unit: 1645

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COMMUNICATION REGARDING NOTICE OF ABANDONMENT

Initial Patent Examination Division  
Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This communication is in response to the Notice of Abandonment issued on 28 January 2002 in connection with the above-identified application. The applicants respectfully request that the Notice of Abandonment be withdrawn. As evidence that all filing requirements have been met, attached herewith is a copy of the Transmittal Letter for Missing Parts of Application and the Fee Transmittal dated 21 June 2001. Also attached herewith is a copy of the returned Postcard from the U.S. Patent and Trademark Office indicating that the 21 June 2001 submission was received by the Office.

The Initial Patent Examination Division asserts that the full amount of the basic filing fee was not paid. However, section 1 of the Fee Calculation portion of the Fee Transmittal entitled "Basic Filing Fee," specifies that the full amount of the basic filing fee of \$710.00, reduced by one-half for small entity status, should be charged to Deposit Account No. 03-1952.

Furthermore, part 1 of the Method of Payment portion of the Fee Transmittal specifies that the Commissioner is authorized to charge any additional fees required under 37 C.F.R. 1.16 and 1.17 to Deposit Account No. 03-1952. Moreover, page 2 of the Transmittal Letter specifies that the basic filing fee of \$710.00, reduced by one-half for a small entity, should be charged to the agent's deposit account and also authorizes any additional required fees be charged to the same account.

With respect to the modification of 37 C.F.R. § 1.27 (c) effective 8 September 2001, the small entity form formerly required under § 1.27 is no longer required. Rather, valid assertion of small entity status "need be no more than a simple sentence or a box checked on an application transmittal letter or reply cover sheet." This requirement was satisfied as of 21 June 2001 because the requisite box was checked in section 1 of the Method of Payment section of the Fee Transmittal. Furthermore, the rule states that "the payment of an exact small entity basic filing...fee...is also considered to be a sufficient assertion of entitlement to small entity status." This requirement was satisfied by payment of \$305.00 for the Basic Filing Fee on 21 June 2001.

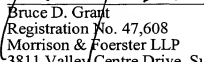
In view of this overwhelming evidence that the filing requirements were satisfied as of 21 June 2001, the applicants respectfully request that examination of the above-identified application be resumed as soon as possible.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 399632000325. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: February 13, 2002

By:

  
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COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20523  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/665,510	09/19/2000	Ralph T. Kubo	39963-2505100-25

DOCKETED Confirm abandonment

CONFIRMATION NO. 7164

REMINDER: —

ABANDONMENT/TERMINATION  
LETTER

DUE DATE: 3/28/02

FINAL DUE DATE: —



\*OC000000007379723\*

**BDO**  
Kate H. Murashige  
Morrison & Foerster LLP  
Suite 500  
3811 Valley Centre Drive  
San Diego, CA 92130-2332

Date Mailed: 01/28/2002

### NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 11/24/2000.

- The reply received on 09/19/2000 was improper. The reply did not include:
  - The full amount of the basic filing fee under 37 CFR 1.16(a), (f), (g), or (k). *Note: A nonprovisional application may not be relied on for benefits under 35 U.S.C. 120 and 37 CFR 1.78 unless the processing and retention fee set forth in 37 CFR 1.21(l) is paid within the one year period set forth in 37 CFR 1.53(f). A provisional application may not be relied on for benefits under 35 U.S.C. 119(e) and 37 CFR 1.78 unless the basic filing fee is paid.*

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

*[Signature]*

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\*Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE